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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANIEL E. SIEGGREEN, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

v.

LIVE VENTURES INCORPORATED, JON
ISAAC, and VIRLAND A. JOHNSON,

Defendants.

Case No. 2:21-cv-01517-CDS-EJY

**STIPULATION TO VACATE
DISCOVERY PLAN/SCHEDULING
ORDER DEADLINE AND ~~PROPOSED~~
ORDER**

Judge: Hon. Cristina D. Silva

1 Pursuant to LR IA 6-1, LR IA 6-2, and LR 7-1, Lead Plaintiff Daniel E. Sieggreen
2 (“Plaintiff”) and Defendants Live Ventures, Inc., Jon Isaac, and Virland A. Johnson (collectively,
3 “Defendants”), by and through their respective counsel, hereby agree and stipulate, subject to this
4 Court’s approval, to vacate and reset the deadline for discovery plan/scheduling order, pending the
5 outcome of Defendants’ pending motion to dismiss the complaint. This is the parties’ second
6 request for the Court to vacate and reset the discovery plan/scheduling order deadline. The parties’
7 request is based on the following:

8 WHEREAS, on March 6, 2023, Plaintiff filed his Amended Class Action Complaint for
9 Violations of the Federal Securities Laws (Dkt. No. 25, the “Complaint”), which alleges violations
10 of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act
11 of 1995 (“PSLRA”), 15 U.S.C. § 78u-4, *et seq.*;

12 WHEREAS, the PSLRA sets forth specialized procedures for the administration of securities
13 class actions, including that: “[i]n any private action arising under this chapter, ***all discovery and***
14 ***other proceedings shall be stayed during the pendency of any motion to dismiss***, unless the court
15 finds upon the motion of any party that particularized discovery is necessary to preserve evidence
16 or to prevent undue prejudice to that party.” 15 U.S.C. 78u-4(b)(3)(B) (emphasis added) (the
17 “PSLRA Discovery Stay”);

18 WHEREAS, on May 5, 2023, Defendants filed their motion to dismiss the Complaint and
19 the Court indicated that a discovery plan/scheduling order would be due by June 19, 2023 (which,
20 due, to the federal holiday, would thus be June 20, 2023) (*see* Dkt. No. 31);

21 WHEREAS, Plaintiff filed his opposition to Defendants’ motion to dismiss the Complaint
22 on June 20, 2023, and Defendants’ reply in support of their motion to dismiss the Complaint is due
23 by July 20, 2023 (*see* Dkt. No. 26);

24 WHEREAS, the parties filed a stipulation and proposed order on June 20, 2023 (the
25 “Stipulation”), which requested, in light of the PSLRA Discovery Stay and the pendency of
26 Defendants’ motion to dismiss the Complaint, and in the interests of judicial economy, conservation
27 of time and resources, and orderly management of this action, the parties would not be required to
28

1 submit a discovery plan/scheduling order until the Court decided the pending Defendants' motion
2 to dismiss the Complaint (Dkt. No. 47);

3 WHEREAS, on June 21, 2023, the Court entered a minute order denying the parties'
4 Stipulation, stating that the filing of a motion to dismiss does not automatically stay discovery, that
5 the parties must either file a joint proposed discovery plan and scheduling order or stipulation to
6 stay discovery within 14 days of the order, and if a stipulation to stay discovery is filed, the
7 stipulation must be supported by the laws and facts supporting the request (Dkt. No. 50);

8 WHEREAS, no party has filed any motion that particularized discovery is necessary to
9 preserve evidence or to prevent undue prejudice to that party, thus the exception to the PSLRA
10 Discovery Stay does not currently apply to this action (*see* 15 U.S.C. § 78u-4 (b)(3)(B));

11 WHEREAS, the parties respectfully submit that the statutory PSLRA Discovery Stay applies
12 to this action during the pendency of Defendants' motion to dismiss the Complaint, and in the
13 interests of judicial economy, conservation of time and resources, and orderly management of this
14 action, the parties should not be required to submit a discovery plan and scheduling order until the
15 Court has decided the pending Defendants' motion to dismiss the Complaint, and that discovery
16 should be stayed until the resolution of Defendants' motion to dismiss the Complaint;

17 NOW, THEREFORE, the parties stipulate and agree, subject to the Court's approval, that:

18 1. The discovery plan and scheduling order deadline of July 5, 2023, shall be vacated and
19 reset to a date following the Court's decision on Defendants' pending motion to dismiss the
20 Complaint and discovery in this action shall be stayed pending the resolution of Defendants' motion
21 to dismiss the Complaint.

22 **IT IS SO STIPULATED.**

23 DATED this 23rd day of June, 2023.

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IT IS SO ORDERED:


UNITED STATES MAGISTRATE JUDGE

Dated: June 26, 2023